

## 7 FAM 1300 APPENDIX L

### SAME SEX MARRIAGE, CIVIL UNIONS, REGISTERED PARTNERSHIP AND NAME CHANGES FOR USE IN U.S. PASSPORTS

*(CT:CON-146; 09-18-2006)*  
*(Office of Origin: CA/OCS/PRI)*

- a. The Defense of Marriage Act (DOMA) (Public Law 104-199, 110 Statutes at Large 2419, 1 U.S.C. 7; 28 U.S.C. 1738c) defines the terms 'marriage' and 'spouse': "In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife." Therefore, the Defense of Marriage Act requires that the words "marriage" and "spouse" be construed to mean a legal union between a man and a woman exclusively.
- b. Applicants seeking to establish a name change based on a same sex marriage certificate, certificate of civil union or certificate of domestic relationship, may not do so absent additional documentation of a name change. **The Department does not recognize name changes based solely on the same sex marriage certificates or certificate of civil union.**
- c. This is true regardless of the state or the country where the certificate was issued and of any applicable statutes – whether foreign or domestic.
- d. The applicant may submit a court ordered name change decree or proper documentation of usage for change of name based on customary usage. See soon to be published 7 FAM 1300 Appendix C, Names to be used in Passports which includes general guidance about name changes by court orders and customary usage.
- e. Same sex marriage certificates, certificates of civil union or certificates of domestic partnership, whether foreign or domestic, **are not** acceptable evidence for recognizing an immediate name change for use in a U.S. passport. However, the same sex marriage certificate or the certificate of civil union can be accepted as one of the public documents submitted in support of a customary name change. Name changes by customary usage must be supported by documentary evidence of public and exclusive use of the new name for a period of five years. Same sex marriage certificates, certificates of civil union or certificates of domestic

relationship **cannot** be accepted as the only documentary evidence of a name change.

- f. **“Known as” Option in Same Sex Marriage Cases.** Generally, the “known as” designation is used only in instances where the documentary evidence clearly reflects that the person actually uses two distinct names concurrently and openly. The “known as” designation should not be used in instances where individuals have only just begun to obtain identity documentation in a new name, and have no evidence that they have used it exclusively for any period of time.

The Department recognizes that there will be instances where states or other legal entities will have allowed applicants to change their names on the basis of the same-sex marriage certificate or certificate of civil union. This creates a problem because applicants have all of their identity evidence in their new names, but yet cannot get a passport issued in the same name. In those cases only, the applicant should be given the option of being issued a passport issued with the “known as” designation. See soon to be published 7 FAM 1300 Appendix C Names to be used in Passports for general guidance on “known as” names.

- g. When suspending a case for this type of problem, overseas posts should use the attached denial letter exhibit. Passport agencies and centers should use the appropriate Information Request Letters (IRLs) designated for these types of cases (IRL 725-10 for general circumstances; 1001-08 for DS-82 applications; 1019-10 for reapplications).
- h. Overseas posts should forward questions regarding specific same sex marriage name changes to CA/OCS/PRI (ASKPRI@state.gov). Domestic passport agencies and centers should forward questions regarding these types of cases to CA/PPT/PAS ([CA-PPT-AdjQ@state.gov](mailto:CA-PPT-AdjQ@state.gov)).

## 7 FAM 1300 APPENDIX L EXHIBIT

*(CT:CON-146; 09-18-2006)*

### **SAMPLE DENIAL LETTER FOR OVERSEAS POSTS ONLY– Name Change based on same sex marriage certificate**

Dear:

I refer to your recent application for a passport in which you request a new passport to reflect a name change. We are unable to comply with your request at this time.

The Defense of Marriage Act (Public Law 104-199) provides that: “In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.”

Therefore, the marriage certificate, certificate of civil union, or registered partnership issued by (name of authority) which you have submitted in support of your name change is not acceptable evidence for recognizing an immediate name change on the basis of marriage. However, Section 51.24 of Title 22 of the Code of Federal Regulations provides that a valid passport may be issued to reflect a new name in the following circumstances:

- If your name has been legally changed, you must submit a **certified** copy of the court order; or
- If your name has not been legally changed and you wish your passport to be written in your assumed name, you must submit **three** public records that show your name, date and place of birth and show exclusive use of your assumed name for **at least five years**. Public records include such documents as school records, military records, employment records, tax records, financial records, insurance records, etc. Two notarized affidavits completed by two people who have personal knowledge of your name change may be substituted in place of one public record. The same sex marriage certificate or the certificate of civil union you submitted is acceptable as one of the public documents.

We will hold your application for ninety (90) days. If we do not receive a certified copy of a court order or decree providing for name change or documentary evidence of public and exclusive use of the new name for five years, or a request to issue the passport in a “known as” name, your

application will be considered denied and filed without further action. Any special return postage will be returned or refunded.

Signed

Consular Officer